

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 9

STEIN, INC.

and

Case 09-CA-214633

TRUCK DRIVERS, CHAUFFEURS AND  
HELPERS LOCAL UNION NO. 100,  
AFFILIATED WITH THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

INTERNATIONAL UNION OF OPERATING  
ENGINEERS (IUOE) LOCAL 18  
(Stein, Inc.)

and

Case 09-CB-214595

TRUCK DRIVERS, CHAUFFEURS AND  
HELPERS LOCAL UNION NO. 100,  
AFFILIATED WITH THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

**COUNSEL FOR THE GENERAL COUNSEL'S LIMITED  
CROSS-EXCEPTIONS TO JUDGE GOLLIN'S DECISION  
AND BRIEF IN SUPPORT THEREOF**

Pursuant to Section 102.46(e) of the Board's Rules and Regulations (Rules and Regulations), Counsel for the General Counsel respectfully takes limited cross-exceptions to Administrative Law Judge Andrew Gollin's January 24, 2019 Decision in the above matter. Specifically, Counsel for the General Counsel excepts to Judge Gollin's likely inadvertent failure to conform his recommended Order and Notice to Employees to his conclusions and remedial findings.

Resulting from Judge Gollin's conclusion that Respondent Stein, Inc. (Respondent Stein) unlawfully failed and refused to recognize and bargain with the Truck Drivers, Chauffeurs and

Helpers Local Union No. 100, affiliated with the International Brotherhood of Teamsters (Teamsters Local 100), Judge Gollin ordered Respondent Stein “to recognize and bargain with Teamsters Local 100 as the exclusive bargaining representative of the employees in the drivers unit with respect to wages, hours, and other terms and conditions of employment and if an agreement is reached, embody it in a signed document.” (ALJD, p. 27, ll. 38-40; p. 28, ll. 29-31)

<sup>1/</sup> However, in his recommended Order, Judge Gollin did not include an affirmative requirement that Respondent Stein recognize and bargain with Teamsters Local 100. (ALJD p. 30, ll. 19-50, p. 31, ll. 1-16) Nor did Judge Gollin include an affirmative provision in his recommended Notice to Employees that required Respondent Stein to recognize and bargain with Teamsters Local 100. (ALJD, p. 33-34, Appendix A)

Judge Gollin appropriately ordered Respondent Stein to recognize and bargain with Teamsters Local 100 as the exclusive bargaining representative of the drivers’ unit. Accordingly, Counsel for the General Counsel respectfully requests that the Board modify Judge Gollin’s recommended Order and Notice to Employees to affirmatively require Respondent Stein to recognize and bargain with Teamsters Local 100 as Judge Gollin so ordered in the “Remedy” section of his Decision.

Additionally, Judge Gollin properly found that Respondent International Union of Operating Engineers (IUOE) Local 18 (Respondent Local 18) violated Section 8(b)(1)(A) by receiving assistance and support from Respondent Stein by being allowed on the jobsite to distribute membership applications and dues-checkoff authorization cards to employees in the drivers’ unit. (ALJD, p. 26, ll. 15-28; p. 28, ll. 9-11) Judge Gollin found that Respondent Local 18’s distribution of membership applications and dues-checkoff authorization cards was a

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<sup>1/</sup> All references to Judge Gollin’s Decision will be designated as (ALJD, p. \_\_\_\_, l. \_\_\_\_).

discrete violation of the Act and separate from Respondent Local 18's other violations of Section 8(b)(1)(A). Nevertheless, Judge Gollin did not include, in either his recommended Order or Notice to Employees, a corresponding cease and desist provision requiring Respondent Local 18 to refrain from further distributing membership applications and dues-checkoff authorization cards when it does not represent an unassisted and uncoerced majority of the employees in the unit. Given that Judge Gollin appropriately concluded that the distribution of said applications and authorization cards constituted a discrete violation of the Act, it is respectfully requested that the Board modify Judge Gollin's recommended Order and Notice to Employees to include explicit directives that Respondent Local 18 refrain from further distributing membership applications and dues-checkoff authorization cards when it does not represent an unassisted and uncoerced majority of the employees in the unit.

Dated: March 28, 2019

*/s/ Daniel A. Goode*

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CERTIFICATE OF SERVICE

March 28, 2019

I hereby certify that I served the attached Counsel for the General Counsel's Limited Cross-Exceptions to Judge Gollin's Decision and Brief in Support Thereof on all parties by electronic mail at the following addresses:

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